

### **REMARKS:**

Reconsideration of the present application, as amended, is respectfully requested.

The pending claims in the present application are claims 1-6 and 36-41. Claims 7-35 have been withdrawn. The Examiner had incorrectly withdrawn claims 39-41 since these claims are different from the non-elected claims made during the election. Furthermore, claims 39-41 directly relate to product claims 1-3 and the Applicant's counsel had communicated with the previous Examiner (Bahar) who indicated that such method claims would be allowable if directly related to the product claims (1-6) and product-by-process claims (36-38).

It is noted the 102 and 112 rejections in the previous Official Action have been overcome and withdrawn.

The Examiner also indicated that Claims 2 and 3 are identical to Claims 37 and 38. In response, the Applicants have amended Claims 37 and 38 to properly depend on independent Claim 36.

The Examiner also objected to the amendments made to the specifications as new subject matter. Based on my discussions with Examiner Hui, we had agreed that the amendment was for definition purposes and therefore not new matter. It is now clear that the term "hydrolyzed" is now properly defined and the amendment to the specifications would be entered.

In the Official Action, the Examiner provisionally rejected Claims 1-6 and 36-38 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 14 of copending Application No. 10/260,344.

In response, the Applicants are submitting a terminal disclaimer to overcome the above-mentioned provisional obviousness-type double patenting rejection.

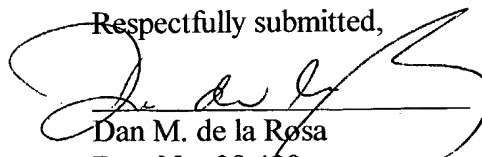
In addition, the Examiner also rejected Claims 1-6, 37 and 38 under 35 U.S.C. 101 as claiming the same invention as that of Claims 1-6 of copending Application No. 10/052,756. In response, the Applicant is submitting documentation (Letter Regarding Merging of Application Files) from the Patent Office indicating the merger of Application No. 10/052,756 with this application (Application No. 10/039,793).

In view of the actions taken and arguments presented, it is respectfully submitted that the present invention is now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Dated: March 4, 2004

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Dan M. de la Rosa', is written over a horizontal line.

Dan M. de la Rosa

Reg. No. 38,429

345 East 80<sup>th</sup> St., Suite 27H

New York, NY 10021

Phone (212) 570-6597

Fax (212) 570-9053